

By Mr. Pignatelli of Lenox, petition of William Smitty Pignatelli and Andrea F. Nuciforo, Jr., (by vote of the town) for legislation to establish a sewer district in the town of Egremont. Local Affairs and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Four.

AN ACT ESTABLISHING A SEWER DISTRICT IN THE TOWN OF EGREMONT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The inhabitants of the town of Egremont, liable to
2 taxation in said town and residing within the territory served by
3 the Egremont Sewer District, and bounded and described as
4 follows:
5 The wastewater service area No. 1 and No. 2 shown on a plan
6 entitled "District Formation Plan Map District Boundary Service
7 Area No. 1 and No. 2" dated Aug. 2003, 1 of 1 and 2 of 2, dated
8 and recorded in the Southern Berkshire Registry of Deeds in Plan-
9 book ____ shall constitute a sewer district and are hereby made a
10 corporate by the name of the Egremont Sewer District, herein
11 after called the district, for the purpose of supplying themselves
12 with sewage collection and disposal system for domestic and
13 other purposes, with power to establish and to relocate and dis-
14 continue the same, to regulate the use of such sewer system and to
15 fix and collect rates to be paid therefor, and for the purposes of
16 assessing and raising taxes and provided herein for the payment of
17 such services, and for defraying the necessary expenses of car-
18 rying on the business of the district, subject to all General Laws
19 now or hereafter in force relating to such districts, except as other-
20 wise provided herein. The district shall have the power to prose-
21 cute and defend all actions relating to its property and affairs.

1 SECTION 2. For the purposes of aforesaid, the district, acting
2 by and through its board of sewer commissioners hereinafter pro-
3 vided for, may contract with any municipality, acting through its
4 sewer department, authority to furnish same being hereby granted,
5 and may take by eminent domain under Chapter 79 or chapter 80A
6 of the General Laws, or acquire by lease, purchase or otherwise,
7 and hold land, or any portion thereof, within the town of Egre-
8 mont and not already appropriated for public purposes; and for
9 said purposes may take as aforesaid, or acquire by purchase or
10 otherwise, and hold, all lands, rights of way and other easements
11 necessary for collection, storing, holding, processing, purifying
12 and disposing of effluent and for conveying the same to any part
13 of the district. The district may construct and maintain on the
14 lands acquired and held under this act proper tanks, pumping
15 plants, buildings, processing plants, fixtures and other structures
16 including also the establishment and maintenance of a collection
17 system and treatment facility, and may make excavations, procure
18 and operate machinery and provide such other means and appli-
19 ances, and do such other things as may be necessary for the estab-
20 lishment and maintenance of complete and effective sewage
21 collection and disposal system; and for that purpose may construct
22 pipelines and establish pumping works, and may construct, lay
23 acquire and maintain conduits, pipes and other works under or
24 over any land, water courses, railroad, railways and public or
25 other ways, and along such ways, in said town, in such manner as
26 not unnecessarily to obstruct the same; and for the purpose of con-
27 structing, laying, maintaining, operating and repairing such con-
28 duits, pipes, and other works, and for all proper purposes of this
29 act, the district may dig up or raise and embark any such lands,
30 highways or other ways in such a manner as to cause the least hin-
31 drance to public travel on such ways; provided, that the manner in
32 which all things are done upon any such way shall be subject to
33 the direction of the selectmen of the town of Egremont. The dis-
34 trict shall not enter upon, or construct or lay any conduit, pipe or
35 other works within, the location of any railroad corporation except
36 at such time and in such manner as it may be agreed upon with
37 such corporation, or, in case of failure so to agree, as may be
38 approved by the department of public utilities. The district may
39 enter upon any land for the purpose of making surveys, test wells

40 or pits and borings, and may take or otherwise acquire the right to
41 occupy temporarily any lands necessary for the construction of
42 any work or for any other purpose authorized by this act.

1 SECTION 3. Any person sustaining damages in his property by
2 any taking under this act or any other thing done under authority
3 thereof may recover such damages from the district under
4 Chapter 79 or Chapter 80A of the General Laws.

1 SECTION 4. For the purpose of paying the necessary expenses
2 and liabilities incurred under this act, other than expenses of
3 maintenance and operation, the district may borrow, in addition to
4 amounts authorized by chapter 44 of the General Laws,
5 \$5,000,000 from time to time as may be necessary, and may issue
6 bonds or notes therefor, which shall bear on their face the words
7 Egremont Sewer District Loan Act of 2003. Each authorized issue
8 shall constitute a separate loan, and such loans shall be payable in
9 not more than 30 years from their dates. Indebtedness incurred
10 under this act shall be subject to the provisions of said chapter 44
11 pertaining to such districts.

1 SECTION 5. The district shall, at the time of authorizing said
2 loan or loans, provide for the payment thereof in accordance with
3 section 4 of this act; and when a vote to that effect has been
4 passed, a sum of which, with the income derived from sewer rates,
5 will be sufficient to pay the annual expenses of operating its sewer
6 works and the interest as it accrues on the bonds or notes issued as
7 aforesaid by the district, and to make such payments on the prin-
8 cipal as may be required under this act, shall without further vote
9 be assessed upon the district by the assessors of said town of
10 Egremont annually thereafter until the debt incurred by said loan
11 or loans is extinguished.

1 SECTION 6. Any land taken or acquired under this act shall be
2 managed, improved and controlled by the board of sewer commis-
3 sioners hereinafter provided for, in such manner as they shall
4 deem for the best interest of the district. All authority vested in
5 said board by this section shall be subject to section 9.

1 SECTION 7. Whenever a tax is duly voted by the district for
2 the purposes of this act, the clerk shall send a certified copy of the
3 vote to the assessors of said town, who shall assess the same on
4 property within the district in the same manner in all respects in
5 which town taxes are required by law to be assessed; provided,
6 that no estate shall be subject to any tax assessed on account of
7 the sewer system under this act if, in the judgement of the board
8 of sewer commissioners hereinafter provided for, after a hearing,
9 due notice whereof shall have been given, such estate is so situ-
10 ated that it will receive no aid from said sewer system, or if such
11 estate is so situated that the buildings thereon, or the buildings
12 that might be constructed thereon, could not be supplied with
13 sewer from said system in any ordinary or reasonable manner; but
14 all other estates in the district shall be deemed to be benefited and
15 shall be subject to such tax. A certified list of the estates exempt
16 from taxation under the provisions of this section shall annually
17 be sent by said board of sewer commissioners to said assessors, at
18 the same time at which the clerk shall send a certified copy of the
19 vote as aforesaid. The assessment shall be committed to the town
20 collector, who shall collect said tax in the manner provided by law
21 for the collection of town taxes, and shall deposit the proceed
22 thereof with the district treasurer for the use and benefit of the dis-
23 trict. The district may collect interest on overdue taxes in the
24 manner in which interest is authorized to be collected on town
25 taxes.

1 SECTION 8. Any meeting of the voters of the territory
2 included within the boundaries set forth in section 1 to be held
3 prior to the acceptance of this act, and any meeting of the voters
4 of the district to be held prior to the qualification of a majority of
5 the sewer commissioners, shall be called, on petition of ten or
6 more legal voters therein, by a warrant from the selectmen of said
7 town, or from a justice of the peace, directed to one of the peti-
8 tioners, requiring him to give notice of the meeting by posting
9 copies of the warrant in two or more public places in the district
10 seven days at least before the time of the meeting. Such justice of
11 the peace, or one of the selectmen, shall preside at such meeting
12 until a clerk is chosen and sworn, and the clerk shall preside until
13 a moderator is chosen. At any meeting held hereunder prior to the

14 acceptance of this act, after the choice of a moderator for the
15 meeting, the question of acceptance of this act shall be submitted
16 to the voters, and if it is accepted by a majority of the voters pre-
17 sent and voting thereon it shall thereupon take effect, and the
18 meeting may then proceed to act on the other articles in the war-
19 rant. After the qualification of a majority of the sewer commis-
20 sioners, meeting of the district shall be called by warrant under
21 their hands, unless some other method be provided by by-law or
22 vote of the district.

1 SECTION 9. Those qualified to vote at meetings of the district
2 shall be those individuals both residents and non-residents who
3 own property within the district and whose property is subject to
4 tax as authorized by this act.

1 SECTION 10. The district shall, after the acceptance of this act
2 as aforesaid, elect by ballot, either at the same meeting at which
3 this act shall have been accepted, or thereafter, at an annual
4 meeting or at a special meeting called for the purpose, five per-
5 sons, inhabitants of and voters in the district, to hold office, two
6 until the expiration of three years, two until the expiration of two
7 years, and one until the expiration of one year, from the day of the
8 next succeeding annual district meeting, to constitute a board of
9 sewer commissioners; and at every annual district meeting
10 following such next succeeding annual district meeting such com-
11 missioners as are elected shall be elected by ballot for the term of
12 three years to fill those expired terms. The date of the next annual
13 meeting shall be fixed by by-law or by vote of the board of sewer
14 commissioners, but in no event shall it be later than 15 months
15 subsequent to the date on which the sewer commissioners were
16 first elected. All the authority granted to the district by this act,
17 except sections 4 and 5, and not otherwise specifically provided
18 for, shall be vested in said board of sewer comm,issioners, who
19 shall be subject, however, to such instructions, rules and regula-
20 tions as the district may by vote impose. At the meeting at which
21 said sewer commissioners are first elected and at each annual dis-
22 trict meeting held thereafter, the district shall elect by ballot, each
23 for a term of one year, a clerk and a treasurer of the district. The
24 treasurer shall not be a sewer commissioner, and shall give bond

25 to district in such amount as may be approved by said sewer com-
26 missioners and with a surety company authorized to transact busi-
27 ness in the commonwealth as surety. A majority of said sewer
28 commissioners shall constitute a quorum for the transaction of
29 business. Any vacancy occurring in said board from any cause
30 may be filled for the remainder of the unexpired term by said dis-
31 trict at any legal meeting called for the purpose. No money shall
32 be drawn for the treasury of the district on account of its sewer
33 works except upon a written order of said sewer commissioners or
34 a majority of them.

1 SECTION 11. Said board of sewer commissioners shall fix just
2 and equitable prices and rates for the use of the sewer, and shall
3 prescribe the time and manner of payment. The income of the
4 sewer works shall be appropriated to defray all operating
5 expenses, interest charges and payments on the principal as they
6 shall accrue upon any bonds or notes issued under the authority of
7 this act. If there should be net surplus remaining after providing
8 for the aforesaid charges, it may be appropriated for such future
9 new construction as said sewer commissioners may recommend,
10 and in case a surplus should remain after payment for such new
11 construction, the sewer rates may be reduced proportionately. If in
12 any year there should be a deficit of revenue, the sewer commis-
13 sioners shall in the following year fix the rate so as to meet such
14 deficit together with the estimated operating costs including
15 interest and debt. Said sewer commissioners shall annually, and as
16 often as the district may require, render a report upon the condi-
17 tion of the works under their charge, and an account of their
18 doings, including an account of receipts and expenditures.

1 SECTION 12. The district may adopt by-laws, prescribing by
2 whom and how meetings of the district may be called, notified,
3 and conducted; and upon the application of ten or more legal
4 voters in the district, meetings may also be called warrant as pro-
5 vided in Section 8. The district may also establish rules and regu-
6 lations for the management of its sewer works, not inconsistent
7 with this act or with any other provision of law, and may choose
8 such other officers not provided for in this act as it may deem nec-
9 essary or proper.

1 SECTION 13. Whoever willfully or wantonly corrupts or
2 diverts any effluent obtained under this act, or willfully or wan-
3 tonly injures any pipe or other property owned or used by the dis-
4 trict for any of the purposes of this act, shall forfeit and pay to the
5 district three times the amount of damages assessed therefor, to be
6 recovered in an action of tort, and upon conviction of any of the
7 above willful or wanton acts shall be punished by a fine of not
8 more that \$300 or by imprisonment for not more than one year, or
9 both.

1 SECTION 14. Upon a petition in writing addressed to said
2 board of sewer commissioners requesting that certain real estate,
3 accurately described therein, located in said town and not other-
4 wise served by a public sewer system be included within the
5 limits thereof, and signed by the owners of such real estate, or
6 major portion of such real estate, said sewer commissioners shall
7 cause a duly warned meeting of the district to be called, at which
8 meeting of the voters may vote on the question of including said
9 real estate within the district. If a majority of the voters present
10 and voting thereon vote in the affirmative district clerk shall
11 within ten days file with the town clerk of said town and with the
12 state secretary an attested copy of said petition and vote; and
13 thereupon said real estate shall become and be part of the district
14 and shall be holden under this act in the same manner and to the
15 same extent as the real estate described in section 1.

1 SECTION 15. This act shall take full effect upon its acceptance
2 by a majority vote of the voters of the territory included within the
3 district by section 1 present and voting thereon, by the use of a
4 check list, at a district meeting called, in accordance with
5 section 8, within four years after its passage.

